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DOCKET NO: H00659.70008.US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Steffen Leonhardt and Stephan Bohm  
Serial No: 09/917,232  
Confirmation No: 9197  
Filed: July 26, 2001  
For: Non-Invasive Method for Optimizing the Respiration of  
Atelectatic Lungs  
Examiner: Robert L. Nasser  
Art Unit: 3736

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William R. McClellan

William R. McClellan, Reg. No. 29,409

Commissioner for Patents  
Washington, D.C. 20231

Sir:

**RESPONSE**

This responds to the Office Action mailed September 11, 2002 in the above-identified application. For the following reasons, reconsideration and allowance of the rejected claims are respectfully requested.

**Remarks**

Claims 1-17 are pending in the application. No claims have been amended.

Claims 2-5 and 15 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner asserts that claims 1 and 14 recite that the alveolar opening is determined from the course of the oxygen saturation as the airway pressure is changed. The Examiner further asserts that respective dependent claims 2 and 15 recite that the saturation is held approximately equal to a reference value and the  $fiO_2$  is changed, which is alleged to be contradictory and to require clarification.

The relationship between independent claims 1 and 14 on the one hand and dependent claims 2 and 15 on the other may be explained as follows. Independent claims 1 and 14 are based on the recognition that the oxygen saturation ( $SO_2$ ) can easily be obtained non-invasively